REMARKS

I. Introduction

Claims 1-20 are pending in the present application. Claims 1-7, 11-16 and 20 stand rejected. Claims 8, 9 and 10 were allowed, and claims 17-19 were objected to as being dependent upon a rejected base claim, but the Examiner has indicated that claims 17-19 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable and reconsideration is respectfully requested.

Applicants note with appreciation the acknowledgment of the claim for foreign priority and the indication that all certified copies of the priority documents have been received.

Applicants also note with appreciation the acceptance of drawings filed on October 5, 1998.

II. Objection of Claims 17, 18 and 19

Claims 17, 18 and 19 were objected to as being dependent upon a rejected base claim, but the Examiner has indicated that claims 17-19 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, Applicants have amended claims 17 to incorporate the limitations of the base claim 12. Accordingly, claim 17 and its dependent claims 18 and 19 are now in allowable condition.

III. Rejection of Claims 1, 3, 12 and 14 under 35 U.S.C. § 102(b)

Claims 1, 3, 12 and 14 stand rejected under 35 U.S.C. § 102(b)

as being anticipated by U.S. Patent 4,642,756 ("Sherrod"). It is respectfully submitted that the Sherrod reference fails to anticipate claims 1, 3, 12 and 14 for at least the following reasons.

To anticipate a claim under § 102, a single prior art reference must identically disclose each and every claim element. See Lindeman Machinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997).

Independent claim 1 recites, in relevant parts, the following: "A control device for controlling a system, comprising . . . a scheduler activating the activatable modules as a function of the respective corresponding priority value of each of the activatable modules to provide activated modules, ***the activated modules generating data by analyzing states of the system.***" Independent claim 12 recites similar limitations, i.e., "with the activated modules, generating data by observing states of the system."

The Examiner states that the Sherrod reference discloses activation of modules which generate "data by analyzing the states of the system on lines 1-8, on column 4" of Sherrod. However, column 4, lines 1-8 of Sherrod merely indicate that storage and I/O peripherals 3', as well as user interactive terminal display 4', are connected to CPU 5', thereby allowing the computer system to access storage devices and "communicate with the outside world." Nothing in this passage, or any other passage, of Sherrod suggests "***the activated modules generating data by analyzing states of the system,***" as recited in claims 1 and 12. It should be noted that the claimed "system" is distinct from the claimed "modules" which "analyze the states of the system," and it is quite apparent that merely

accessing storage devices and communicating with the outside world, as disclosed in Sherrod, does not in any way suggest that there is any data generated by analyzing the states of the system.

For at least the foregoing reasons, claims 1 and 12, as well as their dependent claims 3 and 14, are allowable over Sherrod.

IV. Rejection of Claims 2, 4, 13 and 15 under 35 U.S.C. § 103(a)

Claims 2, 4, 13 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 4,642,756 ("Sherrod") in view of U.S. Patent No. 4,787,041 to Yount ("Yount"). It is respectfully submitted that the combination of Sherrod and Yount fails to render obvious claims 2, 4, 13 and 15 for at least the following reasons.

For a claim to be rejected for obviousness under 35 U.S.C. § 103(a), the prior art must teach or suggest each element of the claim, and it must also suggest combining the elements in the manner contemplated by the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 ; In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990).

Claims 2 and 4 depend from claim 1. Claims 13 and 15 depend from claim 12. Accordingly, the arguments presented above in connection with Sherrod as applied against claims 1 and 12 also apply equally to claims 2, 4, 13 and 15. Furthermore, the Yount reference also does not cure the deficiencies of the Sherrod reference as applied against claims 1 and 12. For at least these reasons, claims 2, 4, 13 and 15 are allowable over Sherrod and Yount.

Independent of the above, the Yount reference fails to suggest the features for which the Examiner cites Yount. The Examiner contends that Yount teaches "a priority manager modifying the corresponding priority value of a module as a function of a time period in which the module is one of activated and deactivated on lines 41-44, on col. 3." However, the cited section of Yount merely indicates the following: "The channel includes a limiter that terminates the access of a CPU to the data handling system after a predetermined occupancy time has elapsed." Nothing in this cited section, or any other section, of Yount suggests ***assigning a priority value*** to a module, let alone "***modifying the corresponding priority value of a module as a function of a time period*** in which the module is one of activated and deactivated." Merely ***terminating the access of a CPU to the data handling system***, as disclosed in Yount, does not in any way suggest that relative priority values are assigned to various modules.

For at least the reasons presented above, the combination of Sherrod and Yount, whether taken individually or in combination, fails to render claims 2, 4, 13 and 15 obvious. Withdrawal of the rejection of claims 2, 4, 13 and 15 under 35 U.S.C. § 103(a) is therefore requested.

V. Rejection of Claims 5, 6, 11 and 20 under 35 U.S.C. § 103(a)

Claims 5, 6, 11 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 4,642,756 ("Sherrod") in view of U.S. Patent 4,653,003 ("Kirstein"). It is respectfully submitted that the combination of Sherrod and Kirstein fails to render obvious claims 5, 6, 11 and 20 for at least the following reasons.

Initially, Applicants note that claim 11 has been amended to depend from allowed claim 8, and claim 20 has been amended to depend

from allowable claim 17. Accordingly, claims 11 and 20 are also in allowable condition.

For a claim to be rejected for obviousness under 35 U.S.C. § 103(a), the prior art must teach or suggest each element of the claim, and it must also suggest combining the elements in the manner contemplated by the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 ; In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990).

Since claims 5 and 6 ultimately depend from claim 1, the arguments presented above in connection with Sherrod as applied against claim 1 also apply equally to claims 5 and 6. Furthermore, Kirstein also does not cure the deficiencies of Sherrod as applied against claim 1. For at least these reasons, the combination of Sherrod and Kirstein fails to render obvious claims 5 and 6.

Independent of the above, Kirstein fails to teach the features for which the Examiner cites Kirstein. Regarding claims 5 and 6, the Examiner contends that "Kirstein teaches . . . modifying the corresponding priority value of a particular module . . . as a function of an activation message which indicates that the particular module has been activated on lines 26-33, on col. 9; modifies the corresponding priority value of the particular module as a further function of a corresponding deactivation message on lines 35-41, on col. 9." However, the cited sections of Kirstein merely indicate the following: a) line branches with switches 112 permit the testing of components when transmission 40 is stopped; b) lines 59 with switches 114 "have the purpose of testing components . . . when the parts of transmission 40 are rotating"; and c) "switches 114 in operating lines 59 offers the advantage that these lines 59 and the corresponding part of

microcomputer 44 can be taken out of the test branches containing switches 112." The cited passages of Kirstein simply do not suggest the concept of assigning and/or modifying relative priority values for various modules, let alone have anything to do with the claimed limitations of modifying "the respective corresponding priority value of a particular module of the activatable modules ***as a function of an activation message*** which indicates that the particular module has been activated," as recited in claim 5, or modifying "the respective corresponding priority value of the particular module ***as a further function of a corresponding deactivation message***," as recited in claim 6.

For at least the foregoing reasons, claims 5 and 6 are allowable over the combination of Sherrod and Kirstein. Withdrawal of the rejection of claims 5 and 6 under 35 U.S.C. § 103(a) is therefore requested.

VI. Rejection of Claims 7 and 16 under 35 U.S.C. § 103(a)

Claims 7 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 4,642,756 ("Sherrod") in view of U.S. Patent 5,563,452 ("Kephart"). For at least the following reasons, Applicants respectfully submit that the combination of Sherrod and Kephart fails to render obvious claims 7 and 16.

For a claim to be rejected for obviousness under 35 U.S.C. § 103(a), the prior art must teach or suggest each element of the claim, and it must also suggest combining the elements in the manner contemplated by the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 ; In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990).

Since claims 7 and 16 depend from claims 1 and 12, respectively, the arguments presented above in connection with Sherrod as applied against claims 1 and 12 also apply equally to claims 7 and 16. Furthermore, Kephart also does not cure the deficiencies of Sherrod as applied against claims 1 and 12. For at least these reasons, the combination of Sherrod and Kephart fails to render obvious claims 7 and 16.

Independent of the above, Kephart fails to teach the features for which the Examiner cites Kephart. Regarding claims 7 and 16, the Examiner contends that "Kephart teaches of a priority manager modifying the corresponding priority value of a particular module of the activatable modules as a function of absolute time signals on lines 29-39, on col. 2." However, the cited section of Kephart merely states that with "these modules, ***a mobile radio system containing data units of various types may be turned on at predetermined times*** to send or receive information," e.g., "unattended down-loading to the mobile data terminal or facsimile unit and/or the regular reporting of vehicle location." There is absolutely no suggestion of the concept of assigning priority values to various modules in Kephart, let alone any suggestion of modifying the priority value of a module as a function of absolute time signals. The fact that a mobile radio may be turned on at predetermined times has nothing to do with the claimed features of claims 7 and 16.

For the foregoing reasons, claims 7 and 16 are allowable over the combination of Sherrod and Kephart. Withdrawal of the rejection of claims 7 and 16 under 35 U.S.C. § 103(a) is therefore requested.

CONCLUSION

In light of the foregoing, the Applicants respectfully submit that all of the pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

The Office is authorized to charge any fees associated with this Amendment to Kenyon & Kenyon Deposit Account No. 11-0600.

Respectfully submitted,

KENYON & KENYON

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